

Office of the
Legislative Fiscal Analyst

FY 2004 Budget Recommendations

Joint Appropriations Subcommittee for
Higher Education

Notes for House Bill 331

Contents:

- 1.0 Summary
- 2.0 Issues
- 3.0 Programs
- 4.0 Additional Information

This Page Intentionally Left Blank

House Bill 331

Before the passage of HB 331, Board of Regents' policy prohibited a nonresident student from converting to residency status if that student came to Utah for the purpose of attending any institution of higher education. Unfortunately, this policy was not consistently enforced by USHE institutions. In reality, a nonresident student could convert to residency status at some institutions without much difficulty. An attempt was made to clarify the residency requirements by simplifying the criteria for granting residency status.

House Bill 331 changed Utah's residency requirement to sixty semester hours of full-time schooling in Utah (the equivalent of two years) before residency status could be accepted. The \$5.0 million of additional revenue on the fiscal note for the bill assumed that out-of-state students would continue to pay nonresident tuition rates which are 3.5 times higher than resident tuition for a year longer than they would under the old policy. In the short term, the policy change failed to generate its anticipated benefits because of declining nonresident enrollments at some schools even though Utah colleges and universities are considered to be among the most affordable in the nation.

Residents Requirements

Prior to the passage of HB 331, residency requirements in Utah were more relaxed than most western states. Ten of the fifteen WICHE states explicitly denied or severely limited residency to nonresident students. Residency requirements in other WICHE states are even stronger:

- Six WICHE states (Colorado, Hawaii, Montana, Oregon, Washington and Wyoming) explicitly deny residency for full-time students seeking residency, with five of these states limiting student residency to half-time students. For example, Colorado will not allow anyone to start their period of physical presence prior to the age of 22.
- Nevada and North Dakota presume a student is in the state for educational purposes, and therefore deny residency, unless it can be proven otherwise.
- Alaska and New Mexico require that students sign a contract relinquishing previous residency, confirming they are in the state for reasons other than education and verifying their intent to remain in the state after graduation.

Generally speaking, students going to another state for the purpose of attending an institution of higher education are not given residency status. A survey of states shows that the vast majority require proof of **financial independence (emancipation)** from parents or guardians before they will grant state residency. In addition to confirmation of emancipation, a 12 month residency requirement and often an age requirement must be met before residency status for tuition purposes is even considered.

Even with the passage of HB 331, Utah's residency conversion policy became the most lenient in the nation. Now a person, prior to registering as a resident student, must:

“(a) maintain continuous Utah residency status while completing 60 semester credit hours at a regionally accredited Utah higher education institution or an equivalent number of applicable contact hours at the Utah College of Applied Technology; and

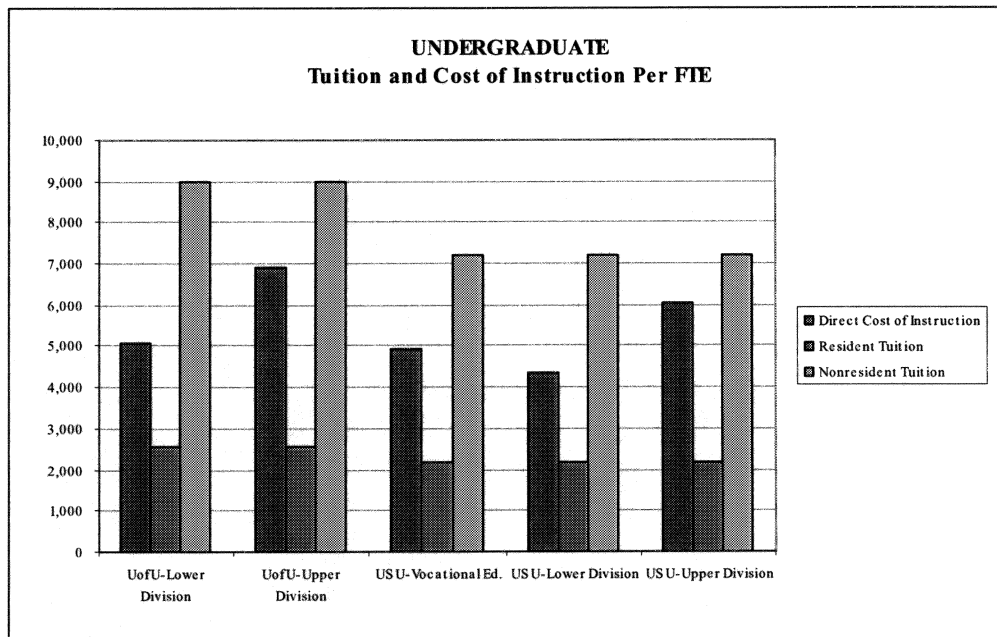
(b) demonstrate by additional objective evidence, including Utah voter registration, Utah drivers license, Utah vehicle registration, employment in Utah, payment of Utah resident income taxes, and Utah banking connections, the establishment of a domicile in Utah and that the student does not maintain a residence elsewhere”.(53B-8-102 UCA)

By excluding a reference to financial independence in the new legislation, every nonresident upper division student in Utah may be granted residency status for tuition purposes after completing 60 credit hours of study in any USHE institution. This may prove to be quite costly for the state.

State Support of the Cost of Education

Public colleges and universities offer state-subsidized education to tax paying citizens of the state. Resident tuition rates, therefore, are expected to be below direct instruction costs. Undergraduate resident student tuition (systemwide average) finances approximately 41 percent of direct instruction. The State funds the remaining balance.

That is not the case for nonresident students. For the most part, nonresidents do not pay income or property taxes to the state so they are expected to bear the full burden for the cost of their education. In Utah, nonresident tuition is 3.5 times the resident rate. For nonresident undergraduate students this is 150 percent of direct instructional costs. The following charts illustrate the relationship of tuition rates to the direct cost of instruction for undergraduate and graduate students at the University of Utah and Utah State University. The difference between the direct cost of instruction and the tuition amount is the state subsidy by level of instruction per FTE.

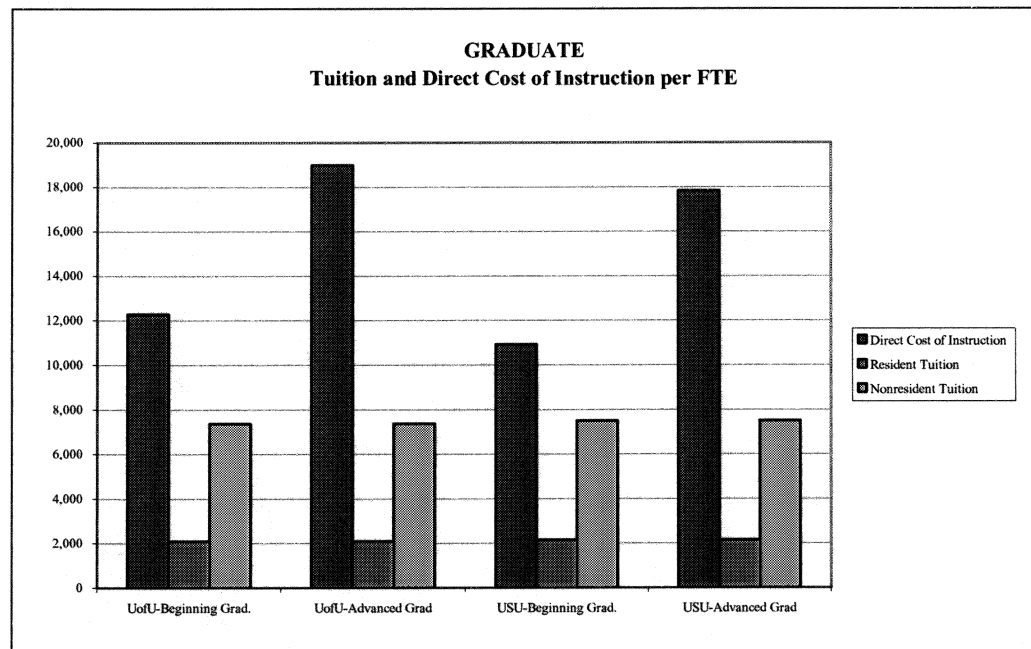


The chart shows that nonresident, undergraduate tuition covers the direct cost of instruction as well as providing sufficient resources to fund overhead expenses for operating and maintaining the institution or the full cost of instruction. When the nonresident student is allowed to pay resident tuition rates, taxes from Utah residents are then used to subsidize the cost of educating that nonresident student. After 60 credit hours of course work, therefore, nonresident students would pay resident tuition. It could cost the state approximately \$4.4 million for the direct cost of their instruction if all nonresident students exceeding 60 credit hours of course work were granted residency status. If the State's residency policies in place before the passage of HB 331 were strictly enforced, an estimated \$18.3 million would have been generated from nonresident undergraduate students. In the opinion of the Fiscal Analyst, the decline in nonresident enrollment, with the passage of HB 331, is only temporary. Over time, as we saw with the semester conversion experience, nonresidents will come back as they do at other institutions with as strict or stricter residency policies. USHE institutions will still generate the \$5.1 million in additional nonresident tuition revenue.

For purposes of comparison, a nonresident student at the University of Colorado in Boulder, pays 150 percent of the direct cost of instruction. Furthermore, those students pay a set amount of tuition regardless of whether they are full- or part-time students. For example, an undergraduate resident business major at the University of Colorado Boulder pays \$3,882 per semester for 9 to 18 credit hours. A nonresident undergraduate business major pays \$19,748 for 1 to 18 credit hours per semester. Approximately 16 percent of the students in Colorado are nonresidents compared to 17 percent in USHE institutions..

Graduate Tuition

It should be pointed out that graduate education in Utah is heavily subsidized by State taxes. This is clearly illustrated by the following graph. The very nature of graduate programs generates discussions on the tuition rates graduate students are charged. Since graduate tuition rates at Utah research institutions are among the lowest of comparable institutions in the west, tuition can certainly be increased to help offset the direct cost of graduate instruction. Resident graduate tuition covers about 15 percent of the direct cost of instruction. About 54 per of instruction costs for nonresident graduate students is covered by tuition. Taxes from Utah residents are then used to subsidize the balance.



Nonresident Tuition Waivers

The Legislature has been very generous to non resident students who desire to study in Utah. By statue, institutional presidents have the authority to give nonresident students tuition breaks through various waivers. During FY 2001, 9,896 FTE nonresident students received approximately \$16.9 million in tuition waivers. These waivers include:

- a) Meritorious Nonresident Waivers(Non-Resident Portion UCA 53B-8-101(2)(d))
The president may waive the nonresident portion of the tuition of meritorious nonresident students during the student's first year of full-time study based on the percentage of nonresident students at the institution multiplied by the number of resident portion waivers authorized in 53B-8-101(2)(a). For FY 2001 1,407 students received \$3,732,000 in tuition waivers systemwide.
- b) Meritorious Nonresident Graduate Student (UCA 53B-8-101(4))
The president may waive all or part of the difference between resident and nonresident tuition for meritorious nonresident graduate students. The presidents waived \$5,608,200 in tuition for 1,061 meritorious graduate students.

- c) Nonresident Summer School
The president may waive all or part of the difference between resident and nonresident tuition for nonresident summer school students. Summer nonresident waivers are not recorded. All students, including foreign students, are simply charged resident tuition. It is estimated that approximately \$5.6 million in nonresident tuition waivers was granted to 6,347 students in FY 2001.
- d) Western Undergraduate Exchange (UCA 53B-8-103)
State institutions are authorized to participate in the WICHE Western Undergraduate Exchange (WUE) Program which enables students in 12 participating states to enroll in selected programs in other participating states at 150% of regular resident tuition. Current allocation by school: UU 125, USU 250, WSU 150, SUU 140, Snow 80, DSC 80, CEU 80, UVSC 54, SLCC 37. There were 836 WUE students that received \$3,184,200 in tuition waivers in FY 2001.
- e) Reciprocal Agreements (UCA 53B-8-103)
The Board of Regents may enter into agreements with other states to provide for a full or partial reciprocal waiver of the nonresident tuition differential charged to undergraduate students. USU waived \$711,200 in tuition for 177 Idaho State University students because of the State's reciprocal agreement with Idaho.
- f) Border Waivers (UCA 53B-8-104)
An institution may grant a scholarship for partial waiver of the nonresident portion of tuition charged to nonresident undergraduate students. The amount of the award may not be more than 50 percent of the nonresident portion of tuition. There were 245 nonresident undergraduate students living within 100 highway miles of USHE institutions that received \$658,600 in border waivers. Waivers allowed by school: UU 27, USU 140, WSU 21, SUU 74, Snow 0, DSC 119, CEU 18, UVSC 0, SLCC 4.

Enrollment Growth

As pointed out in the Utah Foundation Report "Utah's Regional Competitiveness for Non-Resident Higher Education Students," the State is not dependent upon nonresident students to fill their classrooms. Utah ranks 2nd nationally in college aged population growth and 6th in college enrollment. The report states that in an analysis of population growth the college age population in Utah will grow rapidly by 70,000 to 150,000 new students aged 18-24 by 2030.

"Assuming Utah's current college age enrollment rate of 54 percent of those aged 18-24, roughly 35,000 to 75,000 students could join Utah's System of Higher Education (USHE) during that period. This growth would be comparable to the boom in higher education numbers that occurred from 1980 to 2000, when college enrollments basically doubled.

This anticipated enrollment growth in higher education coupled with the continued fiscal constraints of the state makes nonresident tuition policy a very complex issue. Some in the Legislature may wish to focus state educational resources on the children of those that pay taxes in Utah. According to the Utah Foundation report, Utah higher education spending, as a percent of state and local revenue sources, ranks first in the nation for funding support. However, state rankings in terms of tuition support ranked 43rd in FY 2001-2002. Utah's nonresident tuition rates at 4-

year universities, during the same time period, ranked 40th nationally. On the other hand, even at current tuition rates, nonresident students provide a significant revenue resource for supporting USHE institutions.

Recommendation

With the passage of HB 331, it became apparent that several schools were unduly impacted by the loss of nonresident tuition revenue because of a decline in nonresident enrollment. The Legislature considered reversing its decision to offset \$5.0 million in General Funds with tuition revenue. This would have allowed nonresidents enrolled in the current year the opportunity to change to resident status for tuition purposes to help mitigate the impact on the institutions. Because of the State's continued financial restraints, the Legislature was unable to provide financial support for the proposal. As an alternative, the Legislative Fiscal Analyst, in conjunction with the State Board of Regents, proposes adjusting the nonresident funded target level to offset the impact of HB 331. When the State's financial conditions improve and full funding of student enrollment is continued, the funding deficit at the schools impacted by HB 331 will be resolved. In the mean time, it is the opinion of the Analyst that USHE institutions will have to live with the tuition shortfall.

It is the recommendation of the Legislative Fiscal Analyst that the Legislature review its State residency policy for nonresident students attending USHE institution of higher education. It is suggested by the Analyst that the Legislature consider strengthening the State's non-residency policy to include a requirement that nonresidents demonstrate their emancipation from parents or guardians and that they are financially capable of establishing residency in the state.

d institutional specific performance indicators, changes in costs, responsiveness to market demands, student performance as well as recognized differences in institutional roles and mission.